

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LUCIOUS ALVIN JONES, JR., #470169 §

VS. § CIVIL ACTION NO. 6:05cv29

DEVERY MOONEYHAM, ET AL. §

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the complaint should be dismissed for failure to prosecute and failure to obey an order. The Plaintiff has filed a letter in response, which is construed as objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

It is specifically noted that the lawsuit was filed on January 24, 2005, and the Plaintiff neither paid the filing fee nor submitted an application to proceed *in forma pauperis* at the time he filed the lawsuit. He was ordered to either pay the filing fee or to submit an application to proceed *in forma pauperis*. He has been given three extensions of time to comply with the order, but he has failed to comply with something as basic as filing an application to proceed *in forma pauperis*. The lawsuit

should be dismissed for failure to prosecute and failure to obey an order. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** without prejudice. Fed. R. Civ. P. 41(b).

All motions not previously ruled on are hereby **DENIED**.

SIGNED this 16th day of June, 2005.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE